REVIEW

Of an Article in the North American for January **1830**, *on the present relations of the Indians.*

It is known to the public, that the article, in the North American Review here referred to, was written by a contributor to that journal, who four years ago sent forth to the community, through the same vehicle, opinions utterly inconsistent with those, which he has now expressed, on the same subject. No facts have since taken place, in the condition of the Indians, which could induce a change of opinion Many intelligent men, knowing the circumstances of the writer, have expressed great indignation that, (as they believe the case to be,) the interests of the unoffending Cherokees should be sacrificed to promote the selfish ends of an individual, who has thus prostituted his talents in fabricating a plausible and sophistical defence of manifest injustice and oppression.

The following pages, which have just issued from the press in a monthly publication, are thought to place the subject in a clear light; and are therefore reprinted, in a separate pamphlet.

Oppression has drenched the annals of our race in tears and blood. Communities have in general respected the rights of each other, no further than they have been compelled by fear or interest. The might of the strongest has been the title of sovereignty, and the limit of power the boundary of dominion.

While we make these remarks, we would not forget that, during the last fifty years, the spirit of the Gospel has been exerting a redeeming influence upon the public sentiment of Christendom. Hence it is that so much has been accomplished for the abolition of the slave trade, and even of slavery itself. Hence the "poetry of war" has lost much of its enchantment, and the civic wreath has begun to rival the laurels of the hero. Hence the desolating march of imperial ambition, like that of Napoleon; foreign interferences, like those of France and Austria, in suppressing the revolutions in Spain and Naples; and wanton partitions of defenceless territory, like those which have dismembered the land of the ill-fated Kosciusko; have been regarded by so many thousands in Christendom with indignation and abhorrence. Hence, we add, the practical operation of the policy of Great Britain in regard to the people of Hindostan, has been so often and so severely condemned; and hence also it is, that we ourselves, the Christians of the United States, have been so often the theme of reproach and invective, in consequence of our treatment of the Aborigines of our country.

Of the causes of the rapid disappearance of these sons of the forest, we cannot now speak with particularity. Thousands have perished by the sword of the whites, and thousands more by their

own tomahawks, in their desperate wars with each other. But while the sword and the tomahawk have slain their thousands, the 'red dragon' of intemperance has slain his ten thousands.

For the general course of measures relative to the Indians, previous to the revolution, the kings and cabinets of Great Britain are chiefly responsible. Since that period, our governments have professed to consult the best good of the tribes within our borders, and no inconsiderable effort has been made by some of our chief magistrates, to induce them to adopt the arts and usages of civilization. But our extensive purchases of their lands have had a most disastrous influence upon their character and condition. "When the white man puts down his foot, he never takes it up again. It grows fast and spreads wide." After relinquishing the best portions of their hunting-grounds, many tribes have been compelled to retire into some new wilderness, or to change at once all their modes of life, and attempt to derive subsistence from the cultivation of a pittance of their original territory. Those who have emigrated, have usually been despised by the tribes in their neighborhood, and have been obliged to submit to intolerable privation and insult. Of those who have endeavored to till the ground, the most have utterly failed of success, from want of a suitable preparatory discipline.

By the sale of their lands, they have also been brought into more immediate contact with the unprincipled portion of the whites. Their morals have thus been most dreadfully corrupted. The presents and annuities, which, have been distributed so freely among them, by the U. S. Agents, have allured into their midst a swarm of traders, more rapacious than the locusts of Egypt. We allude now more especially to the Northern and North Western tribes. In addition to the traders with their sponging extortion, there have been the white hunters, who, by the payment of a small premium, have been enabled to bear away immense stores of peltry. When the Indian, therefore, has looked around him, and surveyed the cheerless wretchedness of his condition, is it strange that he should so often resort to the inebriating poison, to relieve the anguish of a wounded and mangled heart? The demoralizing and debasing effects of the use of ardent spirits among some of the Indian tribes, it is impossible to exaggerate. A single ancedote, for which we are indebted to the N. A. Review, speaks volumes on this point. "Father," said an aged Potawatomie Chief, after having been urged to remain sober, and make a good bargain for his people, "Father, we care not for the money, nor the land, nor the goods. We want the whiskey. Give us the whiskey. Give us the whiskey."

We entertain no doubt, that a vast amount of the degeneracy and destruction of the sons of the forest has been occasioned by

the surrender of their most valuable domains to their white neighbors. Of this melancholy fact, our present Chief Magistrate seems to be fully aware. " It has long been the policy of government," says his late Message to Congress, " to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy, however, has been coupled with another wholly incompatible with its success. Professing a desire to civilize and settle them, we have at the same time lost no opportunity to purchase their lands and thrust them further into the wilderness. Thus, though lavish in its expenditures upon the subject, Government has constantly defeated its own policy." Little should we have anticipated such sentiments, as a preamble to the annunciation of a plan to remove all the Indians of the South, to the boundless and barren prairies beyond the Mississippi! To compel the Indians to emigrate from their accustomed abodes, or to obtain subsistence by agricultural industry, without previous education, is a measure which has no countenance from the dictates of philanthropy, or the precepts of religion. They must be gradually propitiated by the influence of salutary example; not driven by the stern mandates of inexorable necessity. This fact is exemplified in the great success which has attended the labors of " education families;"—that is, families, in which are to be found mechanics and agriculturists, as well as literary and religious teachers.

So eminently successful have been the experiments of these " families," established among the Indians residing in the Southern States, that not a few of our wisest citizens have been greatly animated by the prospect. They have cherished a strong hope, that the period was at hand, when a part at least of the debt which Americans owe to this much abused people, would be honorably cancelled. But a portentous storm has of late been gathering; and unless God avert the omen, the bolts of desolation seem to be inevitable. A CRISIS now exists, which demands the most serious attention of every patriot and Christian in America.

Within the chartered limits of North Carolina, Tennessee, Alabama, Georgia and Mississippi, are four tribes of Indians—the Cherokees, Choctaws, Chickasaws and Creeks—consisting of at least 60,000 souls. Of these tribes, the Cherokees have made by far the greatest advances in civilization and Christianity. According to a letter of one of their chiefs, it appears, that they began to introduce among them some of the simpler arts of manufacture, previous to the close of the last century. A Moravian school was established among them in 1801. This has been instrumental of much good to the natives. Various causes have since operated to encourage the philanthropic and pious of different Christian denominations, to establish ' education families ' in different parts of

the Cherokee country. A decided change has been produced in the condition and character of the inhabitants. "Most families," if we may credit the statement of Charles R. Hicks—a very intelligent and virtuous chief—"most families cultivate from ten, twenty, thirty, to forty acres of land, *without the assistance of black people.*" This statement, which was made more than twelve years since, is confirmed by some statistics published in the Missionary Herald, relative to the progress of the Cherokes in civilization. By an enumeration in 1826, it was found that they possessed 2,943 ploughs, 172 waggons, 2,500 sheep, 7,600 horses, 22,000 cattle, and 46,000 swine. When we remember, that the population cannot be estimated higher than 15,000 souls, we must be satisfied that a people, thus furnished, are not necessitated to scour the forests, in order to procure "game for subsistence," or "peltry for sale."

To show how generally the useful arts have been introduced among them, we would mention, that at the time of the above enumeration, they had 8 cotton machines, 762 looms, 2,488 spinning wheels, 10 saw-mills, 31 grist-mills, and 62 blacksmiths' shops. Should an enumeration be made at the present time, the result would show a very considerable increase in all these particulars.

Suffice it to say, that so great has been the change in the feelings and habits of the Cherokees, during the last thirty years, and more especially during the last twelve years, that they have been prepared for an entire revolution in their mode of government. Agreeably to the suggestion and advice of President Jefferson, they have, at length, with great unanimity, adopted a form of government, which, in its essential features, corresponds with our own. A printing press has been established, and a newspaper, edited by an intelligent native, who was educated in Connecticut, has now nearly reached the close of its second volume. The matter of this paper is published partly in English, and partly in Cherokee. Although it is not seven years, since the language was reduced to writing, by the wonderful invention of their syllabic alphabet, and not two years since it was printed, yet so rapid has been the progress of general education, that it is now read by a majority of the people. Very many not only read, but *write* the English language. For years past, native Cherokees, without any assistance, have transacted public business by written documents; and in a style of correctness and propriety, which might well shame some officers of the United States who have addressed communications to them. The President, or principal Chief, discharges the duties of his office, in a manner which would not disgrace a governor of one of our own states.

In addition to all this, we should do violence to our own feelings were we to fail of noticing, that several churches have been

gathered among this interesting people. Hundreds regularly assemble on the Sabbath, to listen to the ministers of God. And among those who participate in the celebration of the sacraments, are some of the most intelligent and influential citizens.

So notorious are these and similar facts, that we were utterly confounded, when we saw it stated by a writer in the last number of the North American Review, that he "doubts, whether there is on the face of the globe a more wretched race than the Cherokees." "The great body of the people are in a state of helpless and hopeless poverty. With the same improvidence and habitual indolence, which mark the northern Indians, they have less game for subsistence and less peltry for sale!"—But our confusion vanishes, when we consider the premises from which he drew his conclusions.

"Our personal intercourse with them, (the Indians) has been confined almost to the tribes in the Northwestern regions of the United States, to the Iroquois, the Wyandots, etc. Our general facts and deductions will be principally founded upon what we have seen and heard among these tribes. With the Southern Indians, the Creeks, Cherokees, Choctaws, and Chickasaws, we have not had the same opportunities of personal communication and observation. Of the Creeks and Cherokees, however, we have some knowledge; and so far as our personal intercourse with them has extended, they presented to us the same external appearance, and the same general traits of character, which elsewhere mark the race of red men."

"We have made the inquiry respecting the permanent advantage which any of these tribes have derived from attempts to civilize them, with a full knowledge of the favorable reports that have been circulated concerning the Cherokees. Limited as our intercourse with those Indians has been, we must necessarily draw our conclusions respecting them from facts which have been stated to us, and from the general resemblance they bear to the other cognate branches of the great aboriginal stock. *It is due to truth, that this admission should be made.*" pp. 70, 71.

We entirely coincide with the writer in the last remark. After what we have said respecting the Cherokees, we might leave his statements without further notice. But we would just request the readers of his article, to bear in mind, that his "general facts and deductions," throughout sixty pages, concerning the Cherokees and the other Southern tribes, are not "founded upon what he has seen and heard among" those tribes, but "*are principally founded upon what he has seen and heard among the tribes in the Northwestern regions of the United States.*" These last, from causes which might be easily specified, are probably more debased and miserable, than any tribes in our whole territory. We make this remark on the authority of one, who has had as much opportunity of observation, in regard to their character and condition, as has fallen to the lot of this Reviewer.

Of the Creeks and Cherokees, the Reviewer has "*some* knowledge." To use a homely phrase, he "has none to speak of," or we should certainly have been more fully informed of the fact. So far then as he wrote from observation, his sweep-

ing statements and opinions, relative to the tribes of the South, especially the Cherokees, are entitled to no more respect, than any considerate man would award to those of a traveller, who should have the effrontery to give a general description of the people of Middlesex county, from a partial acquaintance with a few of the inhabitants of that county, and from an intimate knowledge of the *backwoodsmen* in the distant West.

The other source of his information, if we may judge from his own admission, is mere *hearsay*. What "facts have been stated" to him, or by whom stated, he does not choose to specify. We would take the liberty to ask, also, whether the time has come, for "the inquiry respecting the *permanent* advantage which any of the (Southern) tribes have derived from the attempts to civilize them?" It seems to us, that the inquiry would be more pertinent a generation hence. Meanwhile we would recal to the mind of the Reviewer a passage which he may possibly have forgotten, while quaking at the sight of the "finger of reform."

"The missionary establishments for the education of Indian youth, founded and supported by voluntary contributions, and aided by an annual appropriation from the national treasury, *almost offer an atonement for the past*, AND CERTAINLY STRONG ENCOURAGEMENT FOR THE FUTURE." *N. A. R.* April, 1827.

What new facts the reviewer has obtained, within the short period which has elapsed since he expressed so much approbation of "the attempts to civilize the Indians," we are at a loss to conjecture. We are sure, however, that those who have had the most personal intercourse with the Southern tribes, and who have been the most familiar with "the attempts to civilize" them, have been unanimous in exciting the sanguine expectations of the philanthropist and Christian. Every month has furnished stronger and still stronger "encouragement for the future." If, therefore, any reliance is to be placed upon the testimony of numerous eye-witnesses, whose veracity is unimpeachable; if any reliance is to be placed upon the statements of many of our most respectable religious and literary journals, relative to the condition and character of the Cherokees; the article in the last N. A. Review, upon the "Removal of the Indians," so far as it relates to the Cherokees particularly, is nothing less than a series of unblushing and unpardonable misrepresentations. And little did we anticipate that a writer, who had so distinguished himself by his exposures of the falsehoods and calumnies of the London Quarterly, would be found assailing the character of an unfortunate race, with the very weapons which have so often been employed by remorseless hirelings for the destruction of our own national honor.

While the Cherokees have been rapidly advancing in the career of civilization, their progress seems to have been watched with a jealous eye by the people of Georgia. We would here premise, that when we speak of the people of Georgia, we mean the

representatives, senators, and governors of Georgia—the men who have been chosen to act in the legislative and executive departments of the State.

The United States, in a compact with Georgia, in 1802, had promised to extinguish the Indian title to lands within her chartered limits, as soon as it could be done "*peaceably* and upon *reasonable terms.*" The general government was not bound to put Georgia in possession of these lands, *unless the Indians should be willing to sell them at a fair price.* If the Indians should never be willing, then the United States could never be chargeable with delinquency in the fulfilment of that part of the compact, which relates to the extinguishment of the Indian title. The purchase of the lands for the benefit of Georgia depended upon a contingency—*the willingness of the Indians to sell.*

After having disposed of some millions of acres, the Cherokees at length resolved to have no further negociation on the subject of the cession of territory, being determined to dwell among the sepulchres, and to transmit to their posterity the inheritance, of their fathers. The people of Georgia, finding all the efforts of the national executive to be fruitless, and all their own clamors and denunciations abortive, in respect to the extinguishment of the Indian title, openly declared by their senate in 1827, "That the State might properly take possession of the Cherokee country by force, and that it was owing to her moderation and forbearance that she did not thus take possession." Previous to this declaration, a joint committee of the Legislature had made a report, in which they say, that the European nations asserted successfully the right of occupying such parts "of America as each discovered, and thereby they established their supreme command over it." Again:

"It may be contended with much plausibility, that there is, in these claims, more of *force*, than of *justice;* but they are claims which have been recognized and admitted by the whole civilized world; and it is unquestionably true that, under such circumstances, *force* becomes *right.*"

"Before Georgia became a party to the articles of agreement and cession, [the compact of 1802,] she could rightfully have possessed herself of those lands, either by *negociation* with the Indians, or by *force;* and she had determined, in one of the two ways, to do so: but by this contract she made it the duty of the United States to sustain the expense of obtaining for her the possession, provided it could be done upon reasonable terms, and by negociation; but in case it should be necessary to resort to *force*, this contract with the United States makes no provision: the consequence is, that Georgia is left untrammeled, and at full liberty to prosecute her rights in that point of view, according to her own discretion, and as though no such contract had been made."

This is logic with a vengeance. After the avowal of such abominable principles, it is not astonishing that, since that time, the Legislature have voted to annul all the ordinances of the Cherokee government; to extend the laws of Georgia over all the Indians within her chartered limits; and to take possession of

a large part of the territory claimed by the citizens of the Cherokee nation. June 1, 1830, is the time assigned for the annihilation of the political existence of the Cherokees!

From the decisions of Georgia, the Cherokees have appealed to the Executive of the United States. And how has their appeal been answered? The President will protect them in the occupation of their lands, but not in the maintenance of an independent government. And in the occupation of what lands will he protect them? Such "as they have improved by their industry." "For," says his late message, "it seems visionary to suppose, that claims can be allowed on tracts of country, on which they have neither dwelt nor made improvements, merely because they have seen them from the mountain, or passed them in the chase."

The decision of the Executive has filled the Cherokees with consternation. Their appeal is now made to the people and Congress of the United States. Shall this appeal be made in vain? God forbid.

The Cherokees claim the rights of a sovereign people. The country they inhabit, is an inheritance, which was bequeathed to them by their ancestors. Their title to the soil and jurisdiction, is that of immemorial occupancy and independence. Their sovereignty has never been alienated nor forfeited. On the broad principles of natural justice, therefore, the Cherokees can appeal to the world, from the usurpation which is now meditated by the State of Georgia.

But the Cherokees have other claims to the distinction of an independent community. They were always considered such, from the settlement of the country to the time of the Revolution; and since that period, not less than SIXTEEN TREATIES have been made with them, in all which there is not the most distant intimation, that they are not *lords* as well as *possessors* of their soil. These treaties were made and ratified by some of our most distinguished citizens and public officers. The cabinets of Washington, Adams, Jefferson, Madison, and Monroe, were all more or less concerned in negotiating with the Cherokees, relative to the sale of lands—the construction of roads—the apprehension of criminals—and to various other subjects of international welfare. They have had their own statutes, their own magistrates, and their own usages. Hence they are in the treaties properly called the "*Cherokee nation*," and "*citizens of the Cherokee nation*." And hence all our intercourse with them has been precisely that of one independent sovereignty with another.

In consideration of the cession of a large part of their territory to the United States, what remained was "SOLEMNLY GUARANTIED TO THEM FOREVER." As an independent people, they were taken under the patronage of the General Government, and

their condition, for nearly half a century, has been that of *a dependent ally.* The United States have sustained towards them the relation of a guardian. And the only restrictions, upon their sovereignty, are those which they themselves have recognized in amicable treaties. They relate to the sale of lands, and the regulation of trade. The Cherokees agree not to hold a treaty with any power except the Uuited States. Of course, the U. S. must be the exclusive purchasers of Indian lands.

All these points have been most ably substantiated by a writer under the appropriate signature of William Penn. His arguments are irrefragable. There is no possibility of evading tneir conclusiveness.—If the Cherokees have not a perfect title to their soil, and to the jurisdiction of their soil, then we should despair of establishing the title of any people on earth to soil and jurisdiction. If they voluntarily cede their lands,—or if they melt away from the earth,—or if, in consequence of wanton and murderous war, a conquest of their territory becomes necessary,—then their title is legitimately extinguished. But if, while they can live as they have lived, they are deprived of their lands by the intrusion of white settlers, or if their laws and government are nullified and annihilated by the acts of a single State, or of the United States; —such proceedings can be vindicated by those only, who are prepared to subscribe to the doctrines of tyrants, and burn incense to the monsters of despotism.

In a case like the present—where, aside from the considerations of humanity, generosity, and national honor—the demands of *justice* are reiterated in tones of thunder,—it is truly humiliating to be obliged to notice objections. Objections, however, there are, —objections which have been presented to the public, with all the customary insignia of truth and authority.

The writer in the North American Review, obviously aware of the inevitable inference of all honest argumentation on principles of natural justice, has plainly asserted, that

> "We have long since passed the period of abstract rights. Political questions are complicated in their relations, involving considerations of *expediency* and *authority*, as well as of naturai justice." N. A. R. p. 112.

If words have any obvious meaning, this language, plausible as it appears, contains a most execrable sentiment! If the rights of men are to be determined by "considerations of expediency and authority," as well as of natural justice, and this determination is to be made by those who have the physical strength to secure whatever their avarice and ambition may demand, what, we ask, are to become of our boasted principles of republicanism?

Did our venerated fathers, in the war of independence, think that they "had passed the period of abstract rights?" Did they receive without question the decisions of Lord Mansfield and Lord North, relative to colonial dependence and obligation? The war

of '76 was emphatically a war of principles against acts of usurpation. It was the struggle, the desperate and successful struggle, of natural justice, against the tyranny of *expediency and authority.* Our fathers fought, not for what they had suffered, but for what they feared. In the strong metaphor of Edmund Burke, "they snuffed the approach of tyranny in every tainted breeze." What would they have answered, if the British Government had told them, that they had long since passed the period of abstract rights, and therefore, must submit to the laws of expediency and authority, as well as of natural justice? This would have been their answer: "We hold these truths to be self-evident; that all men are born free and equal; that their Creator has endowed them with certain unalienable rights; that among these rights are life, LIBERTY, and the pursuit of happiness."

What if the Holy Alliance should issue a proclamation to the people of the United States, declaring our republic an intolerable nuisance to monarchy—"*rei inter Deos hominesque pulcherrimæ*?" How would such a proclamation be received? And suppose their European majesties should send a half million of soldiers to reduce us to submission? Who among us would acquiesce in the *will of the strongest*, on the ground that "political questions, involve considerations of expediency and authority, as well as of natural justice?"

We had thought it was our high privilege to fall upon times, when the transactions of governments are to be tried by the criterion of abstract rights—by those principles of justice, which God and nature have written in characters of light upon every leaf of the great charter of human liberty. We had thought it was the grand distinction—the peculiar glory of our age, that *force* was no longer to be considered *right.* And never, until the commencement of the outrageous warfare which has been waged upon the weak and defenceless Indians of the South, did we suppose it possible, that an American citizen would be so recreant to liberty, as to vindicate a line of conduct, which in a Napoleon, or a Tamerlane, or an Attila, is held up to everlasting abhorrence and execration. The descendants of those, who, for a paltry tea-tax, hazarded everything in a war "at fearful odds," are the last on earth, who should lord it over their fellow men. "The American people say, that they love liberty. They talk much about it. They boast of their own liberty. Why will they take it from the red men?" Who can answer the noble chief?

We marvel not, however, that those who deny the Indian title of jurisdiction, shrink from the abstract principles of justice, and attempt to stigmatize those, who defend the claim of the Indians by arguments founded upon such principles—as "speculative politicans," "bewildering themselves in metaphysical subtleties." These "metaphysical subtleties" are the plain, common-sense maxims, for which our fathers gave their treasure and their blood.

They are the earliest and the latest lessons in our schools of patriotism. The opposers of the Indian title know full well that they cannot stand in the blaze of celestial truth ; and that they dare not meet the withering frown of insulted justice.

It is possible that some may yet contend for the sovereignty of the United States over the Indian lands, by virtue of the charters which were given to the colonists.—But there is a previous question to be settled. Whence did the monarchs of England derive the power to give such charters? Have inhabitants of newly discovered countries *no rights?* Are they to be treated like wild animals? to be killed or spared at pleasure? to be molested or unmolested in their habitations, as may be agreeable to the sovereign will of the strongest? Who gave the king of England authority, by a *dash of his pen*, to extinguish the Indian title of sovereignty? The kings of Europe and the Pope of Rome had no more title to lands in America than they had to lands in the moon. The charter by which the Aborigines held this country was of higher authority than that of the European colonists. It came not from a mere show of mortality, glittering with the stars of regal magnificence, but from the King of kings, the Lord of lords. It came not from the prince of the "sea-girt isle," but from the eternal Sovereign of the universe.

Vattel, and others who have written upon natural law, have indeed maintained that a savage, migratory people have no right to possess a large territory, to the exclusion of civilized men. Now, although we believe this doctrine originated in the brains of philosophers, who were ready to indite a song of adulation to some pageant of royalty, or were anxious to furnish some plausible pretext for the usurpations by which European governments had deprived many of the natives of this continent of their dearest rights, we are willing to concede, that civilization may have a superior claim to barbarism in respect to territory. But conceding that the Aborigines had no right to exclude European colonists from these shores, does it follow that they had no title to *a part of the country?* If they had not an unquestioned title to *the whole*, had they no title to *any?*—We sincerely hope the North American Reviewer will consider this question, before he attempts to impose upon the community another elaborate sophism, in the disguise of an argument from natural law.

When our ancestors came and settled around the Indians, or in the midst of them, they did not say to the noble sons of the forest, 'You have no right to this country—we are the lords of the soil, but we will allow you to reside here for the present.' No. Their language was, 'The land is yours—you have more than you need—we can all live here in peace and comfort—sell us a part, and we will pay you your price.' This was the uniform language of the settlers. They treated the Indian tribes as

independent nations, and always negotiated with them as independent nations. They had charters or patents from Great Britain; but these they never employed in their intercourse with the natives. The charters and patents of the colonists did not in the least affect their relations to the Indians, but the relations of themselves to other colonists from Great Britain, and from the continent of Europe.

How different the language and conduct of some of their descendants! Could the Indians of 1630 have anticipated the situation of their posterity in 1830, not a white man would have been suffered to breathe, from the Gulf of Saint Lawrence to the Gulf of Mexico. Had our ancestors whispered a remote allusion to such doctrines as now come forth from our National Executive, and find a vindication in one of the first literary journals of the United States, that whisper would soon have been silenced forever by the monitory notes of the war-whoop, and the deadly blows of the tomahawk. Had the Creeks and the Cherokees of 1733 been endowed with a spirit of prophecy, Oglethorpe and his companions would never have been received to the bosom of their hospitality. Little did they imagine, when they resigned to the founder of the State of Georgia, by amicable treaty, a portion of their lands, that they were affixing the seal to the political death-warrant of their own children. Much less than a century since, the Cherokees could have swept from the earth the ancestors of the very men who are now plotting their expatriation—their banishment from their hunting-grounds and their cultivated fields—from the homes, the council-fires, and the sepulchres of their fathers. They had the power, but they used it not. They received the settlers with open arms; for they had never read the story of the reptile, who repaid his benefactor by stinging him to the vitals.

It has been said that the Indian title has been considered a title of *occupancy*, not of sovereignty; and some decisions of courts have been cited in proof of this assertion. Admit the doctrine—what then? The *slave-trade*, with all its abominations, was once sanctioned by law. Now, it is PIRACY. Courts of justice have no power to legislate. Their office is to interpret and apply the statutes enacted by the proper authorities. And if the parliament of Great Britain, previous to our independence, or the American Congress, since that period, had passed a law annihilating the Indian title of sovereignty, it would still remain a most important question, or rather, it could hardly be a question, whether the act was not a direct infringement of that constitution which Heaven gave to all the nations of the earth. It is in vain to plead the right of discovery, the superiority of civilization over barbarism, and the policy of European nations in regard to the original inhabitants of the new world. It is worse than in vain to adduce

the cardinal maxim of despots, that "force becomes right." Five years since, we should have said without hesitation, that the American who recognized this maxim, in any sense, might properly be considered as a candidate for a cell among the lunatics in a hospital.

But what is the simple truth in regard to this matter of occupancy?—Provision has been made by the General Government, in regard to the possession and jurisdiction of the Indian reservations, within the chartered limits of the States—*in the event of a legitimate extinguishment of the Indian title.* Hence the States have a sort of reversionary interest in these lands, so far as jurisdiction is concerned; and, in the case of Georgia, the reversionary interest embraces the property of the soil, in consequence of the compact of 1802. But the Indians have never been under the least obligation to relinquish their title. Unless, therefore, they make a voluntary relinquishment, those who hold this reversionary interest—this misnamed *seizin in fee*—have no right to advance any claim upon the soil or the jurisdiction of the Indian territory, *until time shall be no more.* Still, as many have anticipated the ultimate extinguishment of the Indian title, contracts have sometimes been made, and cases have occurred, involving questions which have been submitted to courts of justice. Our limits will not allow us to go into detail upon this point. Whoever wishes to see what has been decided by courts relative to the civil position of the Indians, will obtain abundant satisfaction by referring to the Appendix to the articles of "William Penn." The decisions of Chief Justice Marshall and Chancellor Kent are entirely at war with every pretension of right on the part of the United States, or of an individual State, to take forcible possession of any portion of the Indian territory, or to exercise jurisdiction over the inhabitants. Chancellor Kent's decision in the case of Goodell vs. Jackson, may be safely recommended to all whose minds may have been misled by the sophistries of the North American Reviewer. And we must be allowed to request the reviewer himself to be candid enough, when he writes again, to inform his readers that the New York decision, to which he refers with so much complacency, was, as he certainly knows, overruled by the illustrious author of the "Commentaries upon American Law." According to this distinguished jurist, the Indians of New York have always been separate communities, independent of the jurisdiction of the State and of the National Executive. All that he has said of the title of the Six Nations to their soil and sovereignty, nay, much more, can be urged in favor of the validity of the title of the Cherokees and other tribes of the South.

To contend that the Cherokees have a title to soil, but not to jurisdiction, is an outrage upon common sense. Soil and jurisdiction are inseparably allied. This we hold to be a fundamental

article in the law of nations. And we know not why the Indians should be treated as an "anomaly," when this article is to be applied. But waiving this consideration entirely, the whole discussion relative to the title of the Cherokees to the exclusive occupancy of their soil, and the independent administration of their government, may be brought into a narrow space. The tenure of occupancy is *unlimited*—it is FOREVER. It is so recognized and so guarantied by treaties. These same treaties have also recognized the Cherokees as a distinct sovereign people, and pledged the good faith of the United States as a security against all encroachment upon their rights. If the treaties do not contain such a recognition, and such a pledge, then they are all a mockery. Now, as the constitution of the United States declares treaties to be the *supreme law of the land*, and requires *the judges of every State to be bound thereby, anything in the constitution or laws of that State to the contrary notwithstanding*, it plainly follows, that no legislature, and no judiciary, have authority to make enactments and pronounce decisions, which contravene the stipulations of treaties regularly made and regularly ratified. All opinions of judges and counsellors, therefore, so far as they affect the rights of the Indians, must be considered correct or incorrect, according to their agreement or disagreement with TREATIES—THE SUPREME LAW OF THE LAND. And if it could be proved conclusively, that other States had legislated for the Indians, *as their subjects*, the Cherokees could still appeal from the legislation of Georgia, to the tribunal of natural justice, and to the solemn obligations of that SUPREME LAW, to which Georgia, as a member of the Union, has pledged obedience.

It appears from the President's message, and from a communication of the Secretary of War, that the Cherokees have given special umbrage to the Executive, in consequence of an alleged encroachment upon the constitution of the United States. They are said to have established an independent government within the limits of a sovereign State—an *imperium in imperio*—thus infringing upon that article, which provides that no new State shall be formed within another State. The Cherokee government, therefore, must be abolished.—None but a bad cause would ever have resorted to such a pitiful sophism. *Have not the Cherokees always had an independent government?* If not, who *have* governed them? Have the people of Georgia, or the people of the United States? Surely not. They have been governed by their own laws and their own chiefs. Within a few years, they have *changed the form* of their government; but to pretend that they have now been establishing a government in Georgia—an *imperium in imperio*—when they have merely *changed the form* of a government, which they have had and exercised from time immemorial, is preposterous.

But in regard to this *imperium in imperio*—this Gorgon which has of late so marvellously troubled the imaginations of some of our public men, what evils has it hitherto occasioned? For more than forty years, the Cherokees have been at peace with the United States, and are likely to remain so from age to age, unless they are wantonly molested. And if great and distressing evils existed in consequence of their situation in the midst of the whites, *who should remove?* The Georgians, or the Cherokees? The Georgians settled around them, not they in the midst of the Georgians. Hence the Indians are the last that should suffer. There is, however, not the least necessity of collision from the geographical positions of the two parties. The Cherokees have land enough for their accommodation, as an independent, flourishing community; although they possess but a miserable pittance in comparison with the territory of Georgia. And if the Georgians wish for more land, let them find it beyond the Mississippi.

What possible danger is to be apprehended from the Cherokees, living, as they do, remote from the dense settlements of the whites? And what would be gained, in respect to the *imperium in imperio*, if they should remove to the west? Will they not again be surrounded by a white population, and again frighten the Executive by this terrible Gorgon?

If we may judge from opinions which have been expressed, many seem to overlook entirely the question of *right*, in respect to the title of the Indian lands, and are willing that measures should be employed to affect a removal of the inhabitants, because they think such removal would be a *benefit to the Indians themselves.* We do wish that all who think thus, would reflect upon a late declaration of a Senator of Missouri: "I hold it to be a sound moral principle, that it is not *right* to inquire into the *expediency* of doing *wrong*." The Indians have in their own hands the decision of the question, whether they will, or will not remove. We may think a removal would promote their peace and prosperity. If so, we may *advise* them to emigrate. But all *compulsion*, whether it be by military operations or by oppression and intolerable legislative enactments, is unwarrantable and atrocious.

It is sufficient for us, *that the Indians are opposed to a removal.* We are aware, that Col. McKenney, as quoted in the N. A. Review, asserts the contrary; and we have no doubt, that much false information on this point has been communicated to the Executive. The editor of the Cherokee Phœnix has given Col. McKenney such a reply to his statements, as we presume he will not very soon forget. The plain truth is, that for many years, U. S. Agents have been laboring to persuade the Cherokees to remove. Argument and intreaty—figures of speech and figures of arithmetic—pathos of emotion and pathos of gold—have been most liberally and earn-

estly employed; and yet the Cherokees are immoveable. How then can the officers of our government any longer be deceived? Why will they not take the testimony of the Cherokee memorial to the present Congress? Why will they continue to delude themselves with the idle fiction, that the great body of the people are so much in awe of a few "powerful chiefs," that they dare not speak out the real wishes of their hearts?—Again and again, has the voice of this afflicted, persecuted community, been reiterated with thundering emphasis: "WE WILL NOT REMOVE;—WE LIVE ON THE SOIL OF OUR FATHERS, AND HERE WE ARE RESOLVED TO FIND OUR GRAVES."

It is sufficient, we have said, that they are opposed to a removal. It is more than sufficient, that they are opposed, for the best possible reasons. So far as any country has been designated for their future residence, it is a country which has been pronounced by an United States' Agent, to be uninhabitable by a people who wish to devote themselves to agriculture. It consists chiefly of prairies—almost entirely destitute of wood and water. The country has also been explored by some Chickasaw Indians, who are willing to emigrate, provided a suitable territory can be furnished. Their testimony agrees entirely with the representations of Major Long. The astonishing truth is, that notwithstanding all that has been said on the subject of lands for the Indians across the Mississippi, *the United States have not at their disposal a suitable tract of country where the Southern tribes could be colonized.* There is indeed "an ample district west of the Mississippi," but nearly all that would answer the purposes of the people in question, is either pre-occupied,—or is subject to Indian titles unextinguished,—or lies in a latitude which would be destructive to Indians, who have been inured to a Southern climate! Besides, if the territory offered the Indians was as eligible as any portion of the U. S., if a fair equivalent was paid for all improvements on their present soil, even then, a removal would be attended with immense sacrifices. The plan of the Executive embraces the removal of not less than 60,000 souls. The Secretary of War estimates them at 75, 000. Think now of the emigration of 60,000 people—"from helpless infancy to the decrepitude of age"—to a wilderness, many hundred miles distant from their present abode! Think of the emigration of all the inhabitants of Essex or Suffolk county, to a vast region of prairies,—there to erect habitations and cultivate the ground for subsistence! Dwell upon the scene—and no language can portray its horror.

By a singular coincidence, the same Number of the Review which contains the article, upon which we have animadverted, presents us with a most affecting picture of the sufferings of the Acadians, who were barbarously expelled from Nova Scotia. We should think that every man, who should read the article upon *Haliburton's History of Nova Scotia*, before or after perusing that

which precedes it, in the order of arrangement, would find it impossible to sympathize with the cold-blooded vindication of the cruel and inhuman project for the "*Removal of the Indians.*" We ought, perhaps, in justice to the reviewer, to mention for the information of those, who have not read his article, that he seems to have a little relenting, as he approaches the conclusion of his work.

"After all," he says "it cannot be denied, and ought not to be concealed, that in this transplantation from the soil of their ancestors to the plains of the Mississippi, some mental and corporeal sufferings await the emigrants. These are inseparable from the measure itself."

His feelings soon become so tender upon the occasion, that he sheds some very pretty classical tears. He then proceeds:

"Although the Indians are migratory in their habits, yet their local attachments are strong and enduring. *The sepulchres of their fathers* are as dear to them, as they ever were to the natives of the East. Those ties have bound them to their native regions longer and stronger than any other, or all other considerations."

If these things are true of the degraded savages, with whom the writer has been conversant, how much more of intensity should be added to his remarks, when they are applied to the *Cherokees*,—a people, not like the Sacs, and Winnebagoes—but who have houses, and arms, and plantations. How do the Indians of the South contemplate the prospect of a removal?—"We are told that the white man is about to bring his laws over us. We are distressed. Our hands are not strong. We are a small people. Whe white man has strong arms, many warriors, and much knowledge. He is about to lay his laws upon us. *We are distressed.* O that our great father would love us! O that the white man would love us!"

It is truly astonishing that the Executive of the U. S. should suppose it practicable to colonize the Indian tribes, under such circumstances, as would furnish the least hope of their future prosperity. To bring together into a new country, 60,000 Indians, of different tribes, of different languages, of different habits, and different prejudices, with the design of "teaching them the arts of civilization, and by promoting union and harmony among them, to raise up an interesting commonwealth, destined to perpetuate the race, and to attest the humanity of this government"* —appears to ns, when viewed in reference to political sagacity, to be the most insane and ridiculous project, which was ever conceived by rational men. But if the trial of its feasibility would be as harmless as some other vagaries of Quixotism have been, we should not feel the painful solicitude that we now feel. Should the wishes of the Executive be so far carried into effect, as to secure an emigration of the Indians, the world will witness an appalling spectacle of confusion, and anarchy, and wretchedness. If the government wish the Indians to be taught the arts of civilization, and exhibit to the world a perpetual attestation of our humanity, no means whatever

* President's Message.

will be used to disturb them in their present abodes. The Cherokees have already "an interesting commonwealth." Many across the Atlantic have listened with admiration to the story of their advances in civilization and Christianity. Nay more, they have seen with their own eyes: for the press of New Echota has sent them the memorials of its existence and influence.—The other tribes are in the same path of improvement. Schools are in successful operation among the Choctaws and Chickasaws. And even the Creeks have of late inclined their ears to the sound of instruction. Hundreds among these tribes give the most convincing evidence, that they worship the "Great Spirit," in spirit and in truth. In a word, the winter of barbarism is past. The spring of civilization is approaching the summer, and the genial plants are putting forth their blossoms in beauty and fragrance. Shall they be torn up by the roots and transported to a *barren prairie*?

We would now invite the attention of our readers to a few extracts from articles, furnished but a short time since, by the same reviewer for the same journal, which has of late given its editorial sanction to doctrines, which would find a more congenial atmosphere in Constantinople than in Cambridge.

In the N. A. Review, for January, 1826, the writer comments upon the plan of the colonization of the Indian tribes:

"We have serious apprehension, that in this gigantic plan of public charity, the magnitude of the outline has withdrawn attention from the necessary details, and that, if it be adopted, to the extent proposed, it will exasperate the evils that we are all anxious to allay." p. 116.

Again: "It is no slight task for a whole people, from helpless infancy to the decrepitude of age, to abandon their native land, and seek in a distant, and perhaps barren region, new means of support." p. 117.

☞ "A cordon of troops, which might encircle each tribe, might keep them all in peace together. But without such a display of an overwhelming military force, we should soon hear, that the war-dance was performed, the war-song raised, and that the young men had departed in pursuit of fame, scalps and death." p. 118.

In the number for April, 1827, the same writer, after a very respectful notice of "the missionary establishments for the colonization of Indian youth," adverts to the "scheme for removing the Indians to the country west of the Mississippi." Though he does not here discuss the merits of the "scheme," it is obvious, that his views had experienced no change. "The magnitude of the subject is imposing, *and its possible consequences* APPALLING. Doubts and difficulties surround the question."

Those who have read his recent article, are aware, that he now warmly advocates the necessity of the execution of this scheme of removal. He appears not to have entirely forgotten his former sentiments; but his "doubts have gradually given way before the experiments he has seen, and before the imposing circumstances which have gathered around the controversy."

Tempora mutantur, et nos mutamur in illis. The reviewer has changed his opinions;—whether from principle, or interest, we

leave to all who know his history, to decide for themselves. We do not know, that "the possible consequences" of a removal of the Indians, are less "appalling" than they were in 1827. Neither do we know, that there is any less necessity for "a cordon of troops" around each tribe, "to keep them in peace together." Truly, the "searching operation" has a marvellous influence in changing opinions, as well as places.

If others were affected, as we were, by the reviewer's quotations from Mr. McCoy's "Remarks on Indian Reform," they will be somewhat surprised to find, that he differs from this reviewer, in almost every point. The reviewer denies the validity of the Indian title. But Mr. McCoy contends, "that the justice of their claims to the soil they inhabit is not inferior to the most righteous and undisputed title, that any people in any part of the earth, ever preferred to a portion of it." The reviewer speaks of the Indians as "holding with a death-grasp to their old institutions." But Mr. McCoy thinks "it the misfortune of the Indians, that their white neighbors have generally supposed them to be inflexibly attached to their hunting and wild customs." The reviewer attributes the failure of efforts to civilize the Indians, to something peculiar to their nature. Mr. McCoy attributes it to the conduct of the whites. The reviewer speaks of the Cherokees as a most wretched race. But Mr. McCoy, in comparing the Indians of the north with those of the south, inquires: "Can anything in nature be more plain and convincing, than the striking contrast between the miserable wretches on small reservations, or those on our frontiers—*and those flourishing countries, towns and villages, which are inhabited by Cherokees?*"

The reviewer takes all the Indians of the north and the south, gives them the same general character, and would sweep them all away with the same besom of *removal.* But Mr. McCoy, who, the reviewer himself being judge, "is an able and dispassionate laborer in the great field of aboriginal improvement," and "has a right to speak on this subject,"—after expressing his decided disapprobation of the general policy of the government towards the Indians, furnishes us with a testimony, which merits very special consideration. We should like to see the reviewer grapple with this passage:

"We are now admonished, in terms clear and distinct, the language of well known facts, *what we ought not* to do. The question, therefore, presents itself singly, *What ought we to do? Let the history of the Cherokees and their neighbors teach us.* Unless we colonize these people, (the Indians on the small reservations of the north,) *and place them in circumstances similar to those of the Cherokees, they must inevitably perish.*"*

We are reminded, in this connexion, of one illustration of the reviewer's *tact,* which we might have noticed at an earlier stage of

* Mr. McCoy, however, with what consistency let the public judge, recommends the removal of the Cherokees. His arguments are the "*imperium in imperio,*" and "the only hope of averting the stroke which threatens the existence of their nation."

this discussion. Speaking of the Cherokees and other southern tribes, he says,

"Many of them exhibit spectacles as disgusting as they are degrading. Only three years since, an appropriation was made by Congress, upon the representation of the authorities of Florida, to relieve the Indians there from actual starvation."

Now what confidence can the community repose in the writer of this extract? The statement either proves his consummate ignorance of facts, or his wanton perversion of them. Who were the Indians thus relieved from starvation? They were *Seminoles*, whom our government had persuaded to emigrate. Their "land of promise" was thus described by Wm. O. Duval, the Governor of Florida, who explored it in 1826.

"I have never seen a more wretched tract of country, than that which I entered five or six miles south of Chuciichatty—the sand hills rise very high, and the Indian trail winds over an extensive sand ridge, for eight or nine miles; the whole of the timber for this distance, as far as the eye can survey, has been killed by fire; the burnt and blackened pines, without a leaf, added to the dreary poverty of the land, presents the most miserable and gloomy prospect I ever beheld. After descending the southern extremity of this ridge, I entered a low, wet, piney country, spotted with numerous ponds. So low was the whole country, as far as the Indian boundary extended towards Tampa Bay, that after riding all day and until eleven o'clock at night, in the hope I would find a dry spot to sleep upon, I was compelled to take up my lodging on a low wet place for the night. No settlement can be made in this region, and there is no land in it worth cultivation. The best of the Indian lands are worth but little; nineteen twentieths of their whole country within the present boundary, is by far the poorest and most miserable region I ever beheld."

Such was the report of Gov. Duval to the Indian Department, on the subject of the miseries of the emigrant Seminoles! And shall "disgusting and degrading spectacles," which have been produced by the measures of our own government, be cited by an apologist for Georgia and the national Executive, in proof that the Cherokees, as well as the other southern tribes, are a most miserable race? When shall the unfortunate Aborigines receive justice at our hands? Is it not enough, that we dislodge them from their "goodly heritage," and drive them into swamps and deserts? Must we reproach them for their poverty and debasement,—that poverty and debasement which we ourselves have wantonly and barbarously occasioned?—Shall we pour unmingled gall into their cup of sorrow, and then make their very misery an argument for additional cruelties and insults? "*He must be worse than savage, who can view with cold indifference an exterminating policy.*"*

The reviewer was once commenting upon a passage, that suggested to him a remark, which we think might be very aptly applied, not only to statements respecting the Cherokees, but to the general tenor of this elaborate article. "In all of this, there is enough of truth, to elude the charge of deliberate falsehood, and yet so much of error as to present a result, *utterly fallacious.*" (N. A. Review, April, 1827.)

* Report of Committee on Indian Affairs, to Congress, March 23, 1824.

APPENDIX.

OPINION OF MR. JEFFERSON.

It may be useful to lay before the reader a few select opinions, on the subject of Indian rights, which seem entitled to great respect. The first is an extract from a letter, written by Mr. Jefferson to Gen. Knox, and dated Aug. 10, 1791.

"I am of opinion that Government should firmly maintain this ground; that the Indians have a right to the occupation of their lands independent of the States within whose chartered lines they happen to be; that until they cede them by treaty or other transaction equivalent to a treaty, no act of a State can give a right to such lands; that neither under the present constitution, nor the ancient confederation, had any State, or persons, a right to treat with the Indians, without the consent of the General Government; that that consent has never been given to any treaty for the cession of the lands in question; that the government is determined to exert *all its energy for the patronage and protection of the rights of the Indians*, and the preservation of peace between the United States and them; and that if any settlements are made on lands not ceded by them, without the previous consent of the United States, the government will think itself bound, not only to declare to the Indians that such settlements *are without the authority or protection of the United States, but to remove them also by the public force.*"

It is to be remembered, that these opinions were uttered by Mr. Jefferson, at the time the treaty of Holston was formed with the Cherokees. All the important principles asserted by William Penn, in regard to the Indian title to land, are here plainly implied; and yet this extract was not published, till some weeks after all the numbers of William Penn were in circulation. Mr. Jefferson's declarations are in perfect accordance with the obvious meaning of the intercourse law of 1790, the Creek treaty of New York, and the Cherokee treaty of Holston. This contemporaneous exposition, made by a member of Gen. Washington's cabinet, would seem decisive, in case the documents themselves were doubtful; but when each document is perfectly plain by itself, and supported by every other document on the same subject; and when the recorded testimony of the principal agents, in these transactions, is entirely concurrent, without a shade of difference, how is it possible to hesitate as to the true meaning?

A gentleman of veracity has given the following statement, under his own hand.

"On the morning of the 31st of May, 1824, I spent about an hour with the late Thomas Jefferson, at his own Monticello. Having then recently been in Georgia, and heard much said on the Cherokee question, I delicately inquired his opinion on that

subject. In my journal, I find the following memorandum of our conversation about it. "He is decidedly opposed to the Georgia claim—says, she is the most greedy state in the Union; that the Indians are under no obligations to sell their lands; that they have an original title to them; that we have guaranteed this title; and that the Indians are indisposed to sell it." I well remember the emphasis, with which he remarked—"She has always been the most greedy of land of any state in the Union." I inquired respecting the obligation intended to be imposed on the federal government, by the compact of 1802. He replied, in substance, that when he sanctioned that compact, he had no idea that this government was any further obligated thereby, than to *purchase the Cherokee lands, whenever the Indians became disposed to sell them, at a reasonable price.*"

This testimony perfectly accords with the preceding. Doubtless there are many gentlemen in Virginia, who could corroborate this statement of Mr. Jefferson's views; a statement, which perfectly accords with all his conduct towards the Indians while he was President.

OPINION OF MR. CLAY.

On a recent public occasion, Mr. Clay expressed his sentiments concerning the relations between the Indians and the government of the United States. After stating that the principles, by which our government is guided on this subject, were promulgated to all Christendom, in the negotiations at Ghent, he quotes a passage from the correspondence of our ministers there, the most material part of which is contained in the following paragraph:

"Under that system, the Indians residing within the United States are *so far independent*, that they live under *their own customs and not under the laws of the United States;* that their rights upon the lands where they inhabit or hunt, are *secured* to them by boundaries defined in *amicable treaties* between the United States and themselves; and that whenever those boundaries are varied, it is also by *amicable and voluntary treaties*, by which they receive from the United States ample compensation for every right they have to the land ceded by them. They are so far dependent as not to have the right to dispose of their lands to any private person, nor to any power other than the United States, and to be under *their protection alone*, and not under that of any *other power*. Whether called subjects, or by whatever name designated, *such* is the relation between them and the United States. That relation is neither asserted now for the first time, nor did it originate with the treaty of Greenville. These principles have been *uniformly recognized* by the Indians themselves, not only by that treaty, but in *all the other previous as well as the subsequent treaties* between them and the United States."

"Such," adds Mr. Clay, "was the solemn annunciation to the whole world, of the principles and of the system, regulating our relations with the Indians, as admitted by us and recognized by them. There can be no violation of either to the disadvantage of the weaker party, which will not subject us, as a nation, to the just reproaches of all good men, and which may not bring down upon us the maledictions of a more exalted and powerful tribunal."

Our ambassadors at Ghent were five in number, from the Eastern, the Middle, and the Western States. They united in a public declaration, as to a matter of fact, and as to the principles which governed the United States, in our relations with the Indians. If the wishes of Georgia shall now be complied

with, the public declarations, made by our ministers to all Christendom, and to be found in every collection of state papers throughout the civilized world, will be renounced as erroneous and false. With what face can our ministers abroad expect to be credited hereafter, if in so glaring a case as this, five American negotiators, on a most solemn occasion, shall appear to have made declarations, which are left by the country entirely unsupported ?

CLAIMS OF THE BRITISH CROWN.

In 1760 Dr. Franklin proposed a plan for the settlement of the country on the Ohio. No measures appear to have been taken respecting the plan at that time. Ten years afterwards a formal petition was preferred to the crown, by Dr. Franklin, Thomas Walpole, (an eminent banker) John Sargent, Samuel Wharton, and others, asking for a grant of land, westward of the Alleghany mountains, and of a sufficient extent for a separate government. The petitioners were willing and desirous, that the grant should be made, "*reserving therein to all persons their just and legal rights to any parts or parcels of said lands, which may be comprehended within the tract prayed for.*"

The petition was referred to the Board of trade ; and Lord Hillsborough, as President of that Board, on the 25th of May, 1770, made a report unfavorable to the request. One of the reasons, why such a grant ought not to be made, is expressed as follows :

"From this sketch your lordships will observe, that a very considerable part of the lands prayed for lies beyond the line, which has, in consequence of his majesty's orders for that purpose, *been settled by treaty*, as well with the tribes of the Six Nations and their confederates, as with the Cherokee Indians, as the boundary line between his majesty's territories and their hunting grounds ; *and as the faith of the crown is pledged in the most solemn manner*, both to the Six Nations, and to the Cherokees, that notwithstanding the former of these nations had ceded the property in the lands to his majesty, yet no settlements shall be made *beyond that line*, it is our duty to report to your lordships our opinion, that it would, on that account be highly improper to comply with the request of the memorial, *so far as it includes any lands beyond that line.*"
Franklin's Works, Duane's ed. vol. 4. p. 250.

Dr. Franklin wrote an elaborate answer to Lord Hillsborough's Report, in which, however, he does not intimate that treaties with Indians are not binding, or that the kings of England have any title to Indian lands by virtue of the discovery of this continent. He contends, that the Cherokees had no claim to lands on the Ohio ; and that all these lands had been ceded, by the Five Nations, or Six Nations, to the British crown. In the course of Dr. Franklin's answer it is stated, that the Five Nations, in 1701, put all their hunting lands under the protection of the English ; p. 270 ; that, in 1726, the same nations made a grant to the king, "wherein they had put all their hunting lands under his majesty's protection, *to be guaranteed to them*, [*the Indians*] *and to their use* ;" p. 272 ; that general Braddock was instructed, in 1755, that, as against the French, the English claimed the lands on the Ohio "by the *covenant chain of the said deed and treaties* ;" and the General was also instructed to call upon the Indians, "to take up the hatchet and come and *take possession of their own lands*,"—those very lands, which had been placed under the protection of England, but upon which France had erected forts, contrary to the true meaning of the treaty of Utrecht. The answer states, also, that the king of England, "in consequence of the grant from the Six Nations, made to his majesty at Fort Stanwix, in 1768, is *now* vested with the undoubted right and property thereof."

Dr. Franklin therefore concludes, that the British government might properly make the grant, which he and his associates solicited. But he closes this part of the discussion, with the following proposal, which bears on its face that stamp of justice, and fair dealing, which should be manifest in all our transactions with Indians.

"If, however, there has been any *treaty held with the Six Nations*, (since the cession made to his majesty at fort Stanwix,) whereby *the faith of the crown is pledged*, both to the Six Nations and the Cherokees, that no settlements

should be made beyond the line marked on their lordships' report ; we say, *if such agreement has been made by the orders of government with these tribes*, (notwithstanding, as the lords commissioners have acknowledged, " the Six Nations had ceded the property in the lands to his majesty"—)—We flatter ourselves that the objection of their lordships, in the second paragraph of their report, will be entirely obviated, by a specific clause being inserted in the king's grant to us, expressly prohibiting us from settling any part of the same, until such time as we shall have first obtained his majesty's allowance, *and full consent of the Cherokees, and the Six Nations and their confederates*, for that purpose." p. 277.

REMARKS ON THE FOREGOING EXTRACTS.

1. When Dr. Franklin and others petitioned for a grant of lands, they expected that "all persons would have their just and legal rights reserved to them ;" and, of course, that if the Indian title to these lands had not been extinguished legally, it would be thus extinguished by treaty, the only mode then in practice, so far as peaceable Indians were concerned.

2 The British government declared itself bound by treaties with the Indians. *The faith of the crown was declared to be pledged in the most solemn manner* to the Six Nations, and the Cherokees. To what was it thus pledged ? It was pledged in such a manner as to restrain the government from authorizing settlements beyond certain boundaries, and from encroaching upon Indian territory ; just as the faith of the United States is now pledged by numerous Indian treaties. And to this extent was the faith of the government pledged, even with reference to the Six Nations, whose whole country had been ceded to Great Britain by the original and rightful proprietors. This shows the true nature of the Indian cession to the English. It empowered the British forces to enter Indian territory for the purpose of driving off the French, and other foreign nations ; but it gave no right to dispossess the natives, or to introduce white settlers beyond the boundary, without the consent of the Indians.

3. In this discussion of Lord Hillsborough, there is no intimation of any claim adverse to the Indian title, in consequence of the discovery of the continent by Europeans. Even the claims against France, which are asserted by Dr. Franklin, are supported by the treaty of Utrecht, and not by the lines of royal charters.

4. The Indians residing on the Ohio were invited by the English government, in the year 1755, to fight in *defence of their own lands.*

5. Dr. Franklin, who was laboring to make the British title to the lands on the Ohio, as complete as he could, does not carry that title back more than two years before the time when he was writing ; and he places it entirely upon the " *grant from the Six Nations made to his majesty* at fort Stanwix." This is a fair and honest and honorable statement of the case. The original and proper owners made a grant to the king of England of what belonged to them ; and not the king of England to his own subjects of what never belonged to him or them, till after it had been lawfully obtained from the true proprietors. And yet it is pretended, that the United States, by the treaty of Hopewell, did not receive from the Cherokees a grant of a part of their territory, as the language of the treaty imports, and can import nothing else ; but that the United States made a temporary, fugitive, unmeaning, unsubstantial grant to the Cherokees of that very land, which they had possessed from time immemorial, from which they had excluded all others, their possession of which had always been admitted, and which is described, in a similar instrument, as " *belonging to the Cherokees.*" Away with such miserable sophistry.

6. Although Dr. Franklin contended, and justly, that the Cherokees had no claim to land on the Ohio, yet he was perfectly willing to take a grant, which prohibited all settlements there, till the full consent of the Cherokees and of other Indian tribes should have been obtained. What would Dr. Franklin say, if he were now a member of the Senate of the United States ?